

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

No. CIV 08-0501 JB/WPL

BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY
OF DONA ANA, NEW MEXICO,

Defendants.

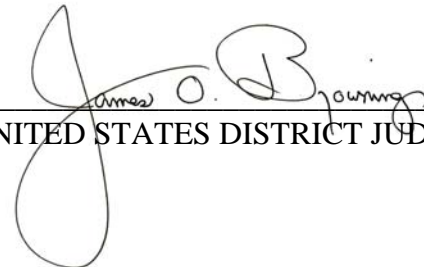
ORDER

THIS MATTER comes before the Court on the Joint Motion to Vacate December 17, 2009 Hearing, filed December 16, 2009 (Doc. 236). The Court held a hearing on December 16, 2009. The primary issue is whether the Court should vacate the motion hearing scheduled for December 17, 2009, and reschedule it for January 4, 2010. The attorneys for the Plaintiff United States of America and Defendant Board of Commissioners of the County of Dona Ana, New Mexico represent that they are in the midst of settlement negotiations, and that the Court's rulings on the pending motions could upset the talks.

Plaintiff-Intervenor Sally Ramirez opposes this motion, in part because Ramirez' counsel is not available on the proposed date of reschedule. See Motion at 2. At the hearing, Paul Gayle-Smith, attorney for Ramirez, argued that Ramirez has a strong interest in having the relevant motions heard as soon as possible and would therefore prefer that the Court hold the hearing as initially scheduled, on December 17, 2009. The motions scheduled to be heard on December 17, 2009 are, however, primarily procedural, rather than substantive, in nature. Further, the Court notes that hearing these motions on December 17, 2009 might require significant unnecessary work if the

settlement negotiations prove successful, and that the negotiations, if successful, might make the hearing itself unnecessary. The Court also notes that Ramirez did not participate in any of the briefing on those motions -- they are motions of the Plaintiff and Defendant only. Finally, if Mr. Gayle-Smith has a legitimate interest in being at the January 4, 2010 hearing and cannot, the Court can address his need to be present at a time closer to the hearing, when it becomes evident that settlement negotiations will not obviate the need for the hearing. Thus, for the reasons stated on the record, and for further reasons consistent with those already stated, the Court will grant the Plaintiff's and Defendant's motion, vacate the December 17, 2009 hearing, and reschedule that hearing for January 4, 2010.

IT IS ORDERED that the Joint Motion to Vacate December 17, 2009 Hearing is granted, and hearing is rescheduled for January 4, 2010.



UNITED STATES DISTRICT JUDGE

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